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5 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
6 AT TACOMA

7 HARRY WILLIAM O'NEAL,

8 Petitioner,

9 v.

10 MIKE KENNEY,

11 Respondent.

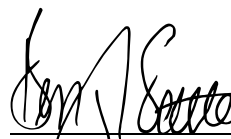
Case No. C08-5490BHS

ORDER ON PETITIONER'S  
APPLICATION TO PROCEED *IN*  
*FORMA PAUPERIS*

12 This matter comes before the court on review of the August 12, 2008, Report and  
13 Recommendation of Magistrate Judge J. Kelley Arnold, who recommended that Petitioner's  
14 application to proceed *in forma pauperis* be denied because Petitioner appeared to have the  
15 funds to pay the \$5.00 filing fee. Dkt. 3. The court has reviewed the Report and  
16 Recommendation and the remainder of the file herein.

17 On August 26, 2008, after the Report and Recommendation had been issued,  
18 Petitioner paid the filing fee (Receipt # T4339). Therefore, the Report and  
19 Recommendation is moot, and Petitioner's application to proceed *in forma pauperis* is  
20 **DENIED**. Petitioner's habeas corpus action shall proceed, and this case, including all  
21 pending motions, is **RE-REFERRED** to United States Magistrate Judge J. Kelley Arnold in  
22 accordance with the original order of reference.

23 DATED this 15<sup>th</sup> day of September, 2008.

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26 BENJAMIN H. SETTLE  
27 United States District Judge

28 ORDER